

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-220181, B-220182 DATE: October 18, 1985

MATTER OF: Pacific Allied Products, Ltd.

DIGEST:

To be considered an interested party so as to have standing to protest under the Competition in Contracting Act of 1984 and GAO Bid Protest Regulations, a party must be an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of a contract or the failure to award a contract. A manufacturer which may supply its product to the bidders in a federal procurement, but which is not an actual or prospective bidder itself, is not an interested party.


Pacific Allied Products, Ltd. protests any award under invitation for bids (IFB) Nos. DACA83-85-B-0243 and -0244, issued by the Corps of Engineers for reroofing of Moanalua Terrace Housing, Oahu, Hawaii. The protester contends that the specifications in the solicitations are overly restrictive in that they require the use of only one type of insulation material. Because we find that the protester is not an interested party, we dismiss the protests.

Under the Competition in Contracting Act of 1984, 31 U.S.C.A. § 3551(2) (West Supp. 1985), an interested party is defined as an "actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or the failure to award the contract." This statutory definition of an interested party is reflected in the language of our Bid Protest Regulations which implement the Act. 4 C.F.R. § 21.0(a) (1985). Accordingly, with respect to all bid protests filed on or after January 15, 1985, the effective date of the Act's bid protest provisions, only protests involving a direct federal procurement filed by a party that comes within the statutory definition of an interested party can be considered. Polycon Corp., B-218304, et al., May 17, 1985, 64 Comp. Gen. ___, 85-1 CPD ¶ 567.

033496

Here, the Corps of Engineers' report states that the protester is a manufacturer of cellular polystyrene, an insulation material originally listed as acceptable in the specifications, but subsequently deleted by amendment to the solicitations. The Corps states, and the protester does not dispute, that, while the protester thus is a potential supplier to bidders under the solicitations, the protester is not itself an actual or prospective bidder. As a result, the protester does not qualify as an interested party under the Competition in Contracting Act or our regulations. ADB-ALNACO, Inc., B-218541, June 3, 1985, 64 Comp. Gen. ___, 85-1 CPD ¶ 633. The protester argues that it should be regarded as an interested party because its economic interest as a manufacturer and potential supplier to the successful bidder is affected by the Corps' decision to exclude its product. The protester's interest as a potential supplier is not sufficient, however, since, as discussed above, both the Competition in Contracting Act and our regulations also require the protester to be an actual or prospective bidder.

The protests are dismissed.


Ronald Berger
Deputy Associate
General Counsel